

Town of Amherst
Zoning Board of Appeals - Special Permit
DECISION

Applicant and Owner: Erica Deighton
281 Potwine Lane, Amherst, MA 01002

Date Application filed with the Town Clerk: April 29, 2008

Nature of request: Petitioner seeks to renew Special Permit ZBA FY2006-00036 for a flag lot under Section 6.3 of the Zoning Bylaw

Location of property: 275 Potwine Lane,
Map 23A, Parcel 41, R-O and R-LD/FC Zoning District

Legal notice: Published in the Daily Hampshire Gazette on May 4 and 14, 2008, and sent to abutters on May 6, 2008

Board members: Thomas Simpson, Barbara Ford and Eric Beal

Submissions: The applicant submitted the following documents:

- A Management Plan for 261, 265 and 275 Potwine Lane, recorded in the Registry of Deeds October 22, 2004;
- Plan entitled "Flag Lot Special Permit" prepared by Harold L. Eaton and Associates, dated January 14, 2004 and approved by the Zoning Board of Appeals on February 12, 2004;
- A copy of the previous Special Permit, ZBA FY2006-00036.

Site Visit: none

Since a Special Permit had been issued for this flag lot twice in the past and nothing had changed in the last two years, the Board did not have an official site visit. Instead, individual members visited the site on their own.

Public Hearing: May 22, 2008

At the public hearing Erica Deighton presented the petition to renew the flag lot Special Permit. She made the following comments:

- The lot has not been built upon;
- She owns the adjoining property and has no plans to build on the flag lot;
- There is no change to the flag lot and no change to the maintenance agreement since the last Special Permit.

Mr. Simpson noted that the flag lot had been previously permitted by two Special Permits, ZBA FY2003-00028 and FY 2006-00036, and that there were no issues to granting the permits then. However, in both cases the permits expired because no construction had begun on the property within two years of filing with the Town Clerk (Bylaw Section 10.37). Hence the need to renew the Special Permit again.

Mr. Simpson asked the other Board members if they had any questions. They had none, and no member of the public spoke to the petition.

Mr. Simpson made a motion close the public hearing. Mr. Beal seconded the motion, and the vote was unanimous to close the public hearing.

Public Meeting

The Board was satisfied that no changes had been made and there were no objections to continuing the permit.

Mr. Simpson suggested that the same findings and conditions from the previous Special Permit be kept for this permit. The other Board members agreed.

Findings:

Under Zoning Bylaw Section 6.3 the Board found that:

- 6.3 – The lot is located in the R-O and R-LD Districts, with an FC overlay on the rear portion of the lot.
- 6.31 –The site is not part of an Approved Definitive Subdivision Plan and the lots meet all of the requirements of Section 6.32 through 6.37 of the Zoning Bylaw.
- 6.32 –The rear portion of the lot lies in the FC zone and is therefore subject to Sections 3.2832, 4.3271 and 4.3272, as follows: The main body of the lot is less than 30,000 square feet, the maximum allowed.
- 6.33 –The lot has an access strip (“pole”) with a minimum frontage and minimum width of 40 feet and a maximum length of less than 400 feet; there is no change in direction on the access strip greater than 45 degrees.
- 6.34 and 6.35 – The width of the building area is more than 150 feet and the building area is capable of containing a circle whose diameter is 150 feet, which is the frontage requirement for lots with frontage in the R-O zone.
- 6.36 –There are no more than three flag lots adjacent to each other at the street line.
- 6.37 –Access to the lots meets the requirements of Section 7.7 of the Zoning Bylaws, Access Requirements and Driveways.
- 6.38 –There are no more than three flag lots created from the original lot.

Zoning Board Decision

Mr. Simpson made a motion to APPROVE the application with the same conditions and findings as the previous permit. Ms. Ford seconded the motion.

For all the reasons stated above the Board VOTED unanimously to GRANT a renewal of Special Permit ZBA FY2006-00036 for a flag lot under Section 6.3 of the Zoning Bylaw, as applied for by Erica Deighton, at 275 Potwine Lane (Map 23A, Parcels 41, R-O/R-LD/FC Zoning District) with conditions.

THOMAS SIMPSON

BARBARA FORD

ERIC BEAL

FILED THIS _____ day of _____, 2008 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2008.

NOTICE OF DECISION mailed this _____ day of _____, 2008
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2008,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a renewal of Special Permit ZBA FY2006-00036 for a flag lot under Section 6.3 of the Zoning Bylaw, as applied for by Erica Deighton, at 275 Potwine Lane, (Map 23A, Parcels 41, R-O/R-LD/FC Zoning District) with the following conditions:

1. The flag lot shall have access via the common driveway only, as shared with the frontage lot and the adjacent flag lot.
2. The project shall be built as shown on the plans approved by the Board at the public meeting on February 12, 2004.
3. The common driveway, common land, utility easement and open space shall be managed and maintained in accordance with the Management Plan filed at the Registry of Deeds on October 22, 2004.
4. Drainage from the common driveway shall not overflow onto abutting property.
5. The emergency vehicle turnaround area shall be designed with appropriate radii to allow emergency vehicles to make their turns.
6. No dwelling unit other than a single-family house may be built on this lot.
7. Prior to the issuance of a Building Permit, a final site plan showing the location of the house and the driveway shall be submitted to the Board for approval at a public meeting.
8. This flag lot is subject to Section 14 of the Zoning Bylaw, Phased Growth Development; authorizations are available as of July 2008.

THOMAS SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE